

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF APPLICATION ) **ORDER GRANTING PETITION FOR**  
FOR PERMIT NO. 61-12096 IN THE ) **RECONSIDERATION AND**  
NAME OF ELK CREEK CANYON LLC) **REINSTATMENT OF APPLICATION**  
\_\_\_\_\_ ) **FOR PERMIT**

This matter having come before the Department of Water Resources (Department) as a petition to reconsider a preliminary order voiding a permit application, the Department makes the following finds, concludes, and orders:

**FINDINGS OF FACT**

1. On January 25, 2010, the Department issued a preliminary order voiding Application for Permit No. 61-12096 in the name of Elk Creek Canyon LLC (Applicant).
2. The Department issued the preliminary void order because the applicant failed to provide requested information by a December 31, 2009 deadline.
3. On February 8, 2010, the Applicant filed a Petition for Reconsideration in connection with the order.
4. On February 18, 2010, the Department took action on the Petition for Reconsideration by letter. The letter outlined requested information needed for the application. The Applicant was to submit the information by May 1, 2010 for the Department to consider the Petition for Reconsideration.
5. On April 29, 2010, the Applicant timely submitted the requested information.

**CONCLUSIONS OF LAW**

1. Rule 730.02.a. of the Department's Rules of Procedure (IDAPA 37.01.01.730.02.a.) provides in pertinent part as follows:


*Any party may file a petition for reconsideration of this preliminary order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this order will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law.*

2. The Department should grant the Petition for Reconsideration pursuant to Rule 730.02.a. of the Department's Rules of Procedure. The Applicant has shown diligence in submitting the requested information in a timely manner.

ORDER

IT IS HEREBY ORDERED the Petition for Reconsideration is **GRANTED** pursuant to Rule 730.02.a. of the Department's Rules of Procedure. The preliminary void order is **WITHDRAWN**, and application for permit No. 61-12096 is **REINSTATED**. Processing and review of the application will continue.

Dated this 17<sup>th</sup> day of May, 2010.

  
John Westra, Manager

## CERTIFICATE OF SERVICE

I hereby certify that on this 17<sup>th</sup> day of May, 2010, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER** to the person(s) listed below:

A handwritten signature in black ink, reading "Denise Buffington", is written over a horizontal line.

Denise Buffington  
Administrative Assistant

### **Documents: Order Granting Petition for Reconsideration**

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